HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI C.V.NAGARJUNA REDDY

Writ Petition No.17705 of 2006

Between

Harish and others ..Petitioners

AND

Municipal Corporation of Hyderabad represented by its Commissioner and another ..Respondents

:: JUDGMENT ::

Counsel for the Petitioners: Sri D.Prakash Reddy, Senior Advocate for Sri V.M.M.Chary

Counsel for the respondents: Smt.Jyoti Kiran

29-11-2006

Per G.S.Singhvi, CJ

In this petition, the petitioners have prayed for quashing notice dated 21.8.2006 issued by the Commissioner of Municipal Corporation of Hyderabad under Section 636 of Hyderabad Municipal Corporation Act, 1955 for demolition of illegal construction raised in the building known as Maheshwari Chambers.

One of the grounds on which the petitioners have questioned the impugned notice is that the same is addressed to M/s Association

of Maheshwari Chambers and not to any of them. This assertion of the petitioners has not been controverted in the counter filed on behalf of the Municipal Corporation of Hyderabad.

In view of the above, we do not consider it necessary to adjudicate on the legality of the action initiated by the Municipal Corporation for removal of the unauthorized construction made in premises bearing No.6-3-650 situate at Somajiguda and dispose of the writ petition with the direction that the competent authority shall issue notice to each of the petitioners and other purchasers/occupiers of the building in question, give them opportunity of hearing and then pass appropriate orders in accordance with law.

While disposing of the writ petition in the manner indicated above, we deem it proper to take cognizance of the fact that the entire building of Maheswari Chambers appears to have been constructed without sanctioned plan and without complying with the conditions enumerated in Building Regulation Scheme (B.R.S.) approval intimation letter dated 25.9.2000 issued by Chief City Planner, Municipal Corporation of Hyderabad. It also appears that the builder has violated the mandatory conditions incorporated in Andhra Pradesh Fire Services Act, 1999. It will be, therefore, appropriate for the concerned authorities of the Corporation to take action keeping in view the judgments of the Supreme Court in and **M.I. BUILDERS PVT. LTD. vs. RADHEY SHYAM SAHU AND OTEHRS**[1], **HOTEL SEA GULL vs. STATE OF WEST BENGAL AND OTEHRS**[2], **FRIENDS COLONY DEVELOPMENT COMMITTEE vs. STATE OF ORISSA AND OTEHRS**[3], **RAJINDER SINGH vs. STATE OF HARYANA**[4], **SUSHANTA TAGORE AND OTEHRS vs. UNIION OF INDIA AND OTEHRS**[5], **MUNICIPAL CORPORATION, CHANDIGARH & OTHERS vs. SHANTIKUNJ INVESTIMENT (P) LTD., AND OTHERS**[6] and **M.C. MEHTA vs. UNION OF INDIA AND**

OTEHRS[7]**.**

We have considered it imperative to take suo moto cognizance because the entire concept of planned development has gone haywire due to monstrous growth of illegal constructions (constructions made in violation of sanctioned plan), constructions made in violation of master plan/zonal plan etc., and on that account multifarious problems like acute congestion of traffic, pollution, enormous growth in accidents is being faced by the common man. In many areas, people have to spend hours for traveling few kilometers. The major cause for this malady is rampant growth of unauthorized structures and blatant and unchecked violation of the master plan and the zonal plan.

At this stage, it is not proper for us to express any definite opinion on the culpability of the officers of the Municipal Corporation of Hyderabad, but the State Government is expected to take action in the matter in accordance with law.

Smt. Jyoti Kiran, learned counsel appearing for Municipal Corporation of Hyderabad is permitted to accept notice of this suo moto cognizance and file reply affidavit within two weeks giving names of the officers who held the positions of Commissioner, Chief City Planner, and Assistant City Planner Municipal Corporation of Hyderabad, when such constructions were allowed to be made.

Put up on 27th December, 2006.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

29.11.2006.

psr

[1] (1999) 6 SCC 464

[2] (2002) 4 SCC 1

[3] 2004(8) SCC 733

[4] 2005(9) SCC 1

[5] (2005) 3 SCC 16

[6] (2006) 4 SCC 109

[7] (2006) 3 SCC 399